

IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KIMBERLY C. CUTONE and
ANTHONY CUTONE,

Plaintiffs,

v.

ELI LILLY AND COMPANY, et al.,

Defendants.

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Civil Action No.: 1:04-cv-12725-JLT
Next Event:

JOINT MOTION TO REFER CASE TO
MAGISTRATE JUDGE MARIANNE B. BOWLER FOR MEDIATION

COMES NOW the parties, through counsel, and jointly move this Court to enter an Order referring the above-captioned case to Magistrate Judge Marianne B. Bowler for mediation, and as grounds therefor states:

- 1. This is a products liability/personal injury case arising from plaintiff Kimberly Cutone's in utero exposure to diethylstilbestrol ("DES").
- 2. Discovery in this matter closed on March 30, 2006. Defendant Eli Lilly and Company's Motion for Summary Judgment has been fully briefed.
- 3. Magistrate Bowler has successfully mediated several DES cases pending in the District of Massachusetts.
- 4. The parties request that this matter be referred to Magistrate Bowler for Mediation. Counsel for both parties are available for said Mediation on August 29, 2006 or September 19, 20, 21, or 22, 2006.

WHEREFORE, the parties jointly request this Court enter an Order Referring the above-captioned case to Magistrate Bowler for Mediation.

Respectfully submitted,

TODD & WELD LLP

FOLEY HOAG LLP

/s/ Erica Tennyson

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202-833-8040

Attorneys for Plaintiffs

Dated: August 15, 2006

CERTIFICATE OF SERVICE

I, Erica Tennyson, hereby certify that this Joint Motion to Refer Case to Magistrate Judge Marianne B. Bowler for Mediation, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on August 15, 2006.

/s/ Erica Tennyson
Erica Tennyson

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[PROPOSED] ORDER

UPON CONSIDERATION of the Joint Motion to Refer Case to Magistrate Judge
Marianne B. Bowler for Mediation, and for good cause shown, it is this _____ day of
_____, 2006,

ORDERED that the Motion be and hereby is GRANTED;

AND IT IS FURTHER ORDERED that this matter is referred to Magistrate Judge
Marianne B. Bowler for Mediation to be scheduled for August 29, 2006 or September 19, 20, 21,
or 22, 2006.

JOSEPH L. TAURO
United State District Judge

Respectfully submitted,

TODD & WELD LLP

FOLEY HOAG LLP

/s/ Erica Tennyson

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/s/ Erica Tennyson
Erica Tennyson